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IN THE

Supreme Court of The United States

OCTOBER TERM, 1969

NO. 40 ORIGINAL

COMMONWEALTH OF PENNSYLVANIA,
Plaintiff,

vs.

STATE OF NEW YORK, STATE OF FLORIDA, STATE OF OREGON, COMMONWEALTH OF VIRGINIA, and THE WESTERN UNION TELEGRAPH COMPANY,
Defendants.

MOTION OF THE STATE OF INDIANA FOR LEAVE TO INTERVENE AS A PARTY PLAINTIFF

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TO: THE HONORABLE, THE CHIEF JUSTICE AND ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE UNITED STATES.

The State of Indiana respectfully moves this Court for leave to intervene as a plaintiff in this cause:

1. On or about March 30, 1970, the Commonwealth of Pennsylvania filed its "Motion for Leave to File Complaint and Complaint" in the above captioned original action.

2. The complaint named as parties defendants the states of New York, Florida, Oregon, Virginia, and the Western Union Telegraph Company.

3. By its complaint, plaintiff, the Commonwealth of Pennsylvania averred inter alia:

The plaintiff and the states named as parties defendants are states of the United States.

The defendant, the Western Union Telegraph Company, hereafter referred to as "Western Union," is a corporation organized and existing under the laws of the State of New York with its principal place of business located in New York, New York.

Western Union is engaged in the transmission of telegraphic money orders. In the conduct of its operations, it receives money from a sendor for transmission to a sendee. In the conduct of such operations situations arise where, due to no fault of the corporation, payment cannot be made to the sendee nor can refund be made to the sendor according to the contract on the back of the money order form or, when payment or refund is made by draft, such draft remains oustanding after seven years. When neither payment to the sendee by cash or draft nor refund to the sendor by cash or draft can be made or when such drafts remain outstanding, a controvery exists as to which state is entitled to the funds held by Western Union, when such circumstances occur.

Western Union holds more than $1,500,000.00 in accumulated monies subject to this controversy.

By virtue of a decision of a court of their State, the Commonwealth of Pennsylvania claims entitlement to the escheat or custody of unclaimed moneys held by Western

Union for seven years when Pennsylvania is the state of origin of such purchased telegraphic money orders.

4. The State of Indiana asserts that by virtue of its statutes it is entitled to custodial taking or escheat of such monies held by Western Union under the following rules:

(1) After seven years:

(a) If, according to the term of the contract on the back of the money order, neither payment to the sendee by cash or draft nor refund to the sendor by cash or draft can be effectuated, then the state entitled to escheat or custodial taking is the state from which the money order originated.

(b) If, a draft for payment to the sendee or refund to the sendor remains outstanding, then the state entitled to escheat or custodial taking of the money owing thereon is the state where the draft was issued; provided that if the payee of the draft has a last known address which is outside the state where the draft was issued, then the state of such address is entitled to escheat or custodial taking.

(2) No State under custom, usage or color of state law can subvert the foregoing rules by claiming to be a trustee for the sendee unless so intended by the sendor.

(3) The foregoing rules are to be applied retroactively without time limitation.

5. The State of Indiana believes that the foregoing rules for distribution are the most equitable.

6. The foregoing rules are within the ambit of the declaratory judgment prayed for by the Commonwealth of Pennsylvania.

7. A controversy exists between Indiana and all defendants opposed to the application of the foregoing rules of distribution.

8. The State of Indiana believes that no party heretofore joined or having intervened in this action can protect the interests of the State of Indiana.

WHEREFORE, the State of Indiana prays for leave to intervene in this action as a party plaintiff.

Respectfully submitted

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